

House Bill 564 (AS PASSED HOUSE AND SENATE)

By: Representatives McCall of the 30th and Benton of the 31st

A BILL TO BE ENTITLED
AN ACT

1 To provide a new charter for the City of Nicholson; to provide for incorporation, boundaries,
2 and powers of the city; to provide for a governing authority of such city and the powers,
3 duties, authority, election, terms, vacancies, compensation, expenses, qualifications,
4 prohibitions, conflicts of interest, and suspension and removal from office relative to
5 members of such governing authority; to provide for inquiries and investigations; to provide
6 for oaths, organization, meetings, quorum, voting, rules, and procedures; to provide for
7 ordinances and codes; to provide for a mayor and mayor pro tempore and certain duties,
8 powers, and other matters relative thereto; to provide for administrative affairs and
9 responsibilities; to provide for boards, commissions, and authorities; to provide for a city
10 attorney, a city clerk, and other personnel and matters relating thereto; to provide for rules
11 and regulations; to provide for a municipal court and the judge or judges thereof and other
12 matters relative to those judges; to provide for the court's jurisdiction, powers, practices, and
13 procedures; to provide for the right of certiorari; to provide for elections; to provide for
14 taxation, licenses, and fees; to provide for franchises, service charges, and assessments; to
15 provide for bonded and other indebtedness; to provide for auditing, accounting, budgeting,
16 and appropriations; to provide for city contracts and purchasing; to provide for the
17 conveyance of property and interests therein; to provide for bonds for officials; to provide
18 for prior ordinances and rules, pending matters, and existing personnel; to provide for
19 penalties; to provide for definitions and construction; to provide for other matters relative to
20 the foregoing; to repeal a specific Act; to provide for submission of this Act for preclearance
21 under the federal Voting Rights Act of 1965, as amended; to provide for an effective date;
22 to repeal conflicting laws; and for other purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

ARTICLE I

INCORPORATION AND POWERS

SECTION 1.10.

Name.

This city and the inhabitants thereof are constituted and declared a body politic and corporate under the name and style Nicholson, Georgia, and by that name shall have perpetual succession.

SECTION 1.11.

Corporate boundaries.

(a) The boundaries of this city shall be those existing on the earliest effective date in 2009 of the adoption of this charter with such alterations as may be made from time to time in the manner provided by law. The boundaries of this city at all times shall be shown on a map, a written description, or any combination thereof, to be retained permanently in the office of the city clerk and to be designated, as the case may be: "Official Map or Description of the corporate limits of the City of Nicholson, Georgia." Photographic, typed, or other copies of such map or description certified by the city clerk shall be admitted as evidence in all courts and shall have the same force and effect as with the original map or description.

(b) The city council may provide for the redrawing of any such map by ordinance to reflect lawful changes in the corporate boundaries. A redrawn map shall supersede for all purposes the entire map or maps which it is designated to replace.

SECTION 1.12.

Powers and construction.

(a) This city shall have all powers possible for a city to have under the present or future Constitution and laws of this state as fully and completely as though they were specifically enumerated in this charter. This city shall have all the powers of self-government not otherwise prohibited by this charter or by general law.

(b) The powers of this city shall be construed liberally in favor of the city. The specific mention or failure to mention particular powers shall not be construed as limiting in any way the powers of this city. These powers shall include, but not be limited to, the following:

- (1) Air and water pollution. To regulate the emission of smoke or other exhaust which pollutes the air and to prevent the pollution of natural streams which flow within the corporate limits of the city and to establish regulations to prohibit noise pollution;
- (2) Animal regulations. To regulate and license or to prohibit the keeping or running at large of animals and fowl and to provide for the impoundment of same if in violation of any ordinance or lawful order; to provide for the disposition by sale, gift, or humane destruction of animals and fowl when not redeemed as provided by ordinance; and to provide punishment for violation of ordinances enacted under this charter;
- (3) Appropriations and expenditures. To make appropriations for the support of the government of the city; to authorize the expenditure of money for any purposes authorized by this charter and for any purpose for which a municipality is authorized by the laws of the State of Georgia; and to provide for the payment of expenses of the city;
- (4) Building regulation. To regulate and to license the erection and construction of buildings and all other structures; to adopt building, housing, plumbing, electrical, gas, and heating and air-conditioning codes; and to regulate all housing and building trades;
- (5) Business regulation and taxation. To levy and to provide for collection of regulatory fees and taxes on privileges, occupations, trades, and professions as authorized by Title 48 of the O.C.G.A. or such other applicable laws as are or may hereafter be enacted; to permit and regulate the same; to provide for the manner and method of payment of such regulatory fees and taxes; and to revoke such permits after due process for failure to pay any city taxes or fees;
- (6) Condemnation. To condemn property, inside or outside the corporate limits of the city, for present or future use and for any corporate purpose deemed necessary by the governing authority, utilizing procedures enumerated in Title 22 of the O.C.G.A. or such other applicable laws as are now or may hereafter be enacted;
- (7) Contracts. To enter into contracts and agreements with other governmental entities and with private persons, firms, and corporations;
- (8) Emergencies. To establish procedures for determining and proclaiming that an emergency situation exists within or outside the city and to make and carry out all reasonable provisions deemed necessary to deal with or meet such an emergency for the protection, safety, health, or well-being of the citizens of the city;
- (9) Environmental protection. To protect and preserve the natural resources, environment, and vital areas of the state through the preservation and improvement of air quality, the restoration and maintenance of water resources, the control of erosion and sedimentation, the management of solid and hazardous waste, and other necessary actions for the protection of the environment;

(10) Ethics. To adopt ethics ordinances and regulations governing the conduct of municipal elected officials, appointed officials, and employees, establishing procedures for ethics complaints, and setting forth penalties for violations of such rules and procedures;

(11) Fire regulations. To fix and establish fire limits and from time to time to extend, enlarge, or restrict the same; to prescribe fire safety regulations not inconsistent with general law, relating to both fire prevention and detection and to fire fighting; and to prescribe penalties and punishment for violations thereof;

(12) Garbage fees. To levy, fix, assess, and collect a garbage, refuse, and trash collection and disposal and other sanitary service charge, tax, or fee for such services as may be necessary in the operation of the city from all individuals, firms, and corporations residing in or doing business in the city benefiting from such services; to enforce the payment of such charges, taxes, or fees; and to provide for the manner and method of collecting such service charges;

(13) General health, safety, and welfare. To define, regulate, and prohibit any act, practice, conduct, or use of property which is detrimental to health, sanitation, cleanliness, welfare, and safety of the inhabitants of the city and to provide for the enforcement of such standards;

(14) Gifts. To accept or refuse gifts, donations, bequests, or grants from any source for any purpose related to powers and duties of the city and the general welfare of its citizens, on such terms and conditions as the donor or grantor may impose;

(15) Health and sanitation. To prescribe standards of health and sanitation and to provide for the enforcement of such standards;

(16) Jail sentences. To provide that persons given jail sentences in the municipal court may work out such sentences in any public works or on the streets, roads, drains, and other public property in the city; to provide for commitment of such persons to any jail; or to provide for commitment of such persons to any county work camp or county jail by agreement with the appropriate county officials;

(17) Motor vehicles. To regulate the operation of motor vehicles and exercise control over all traffic, including parking upon or across the streets, roads, alleys, and walkways of the city;

(18) Municipal agencies and delegation of power. To create, alter, or abolish departments, boards, offices, commissions, and agencies of the city and to confer upon such agencies the necessary and appropriate authority for carrying out all the powers conferred upon or delegated to the same;

(19) Municipal debts. To appropriate and borrow money for the payment of debts of the city and to issue bonds for the purpose of raising revenue to carry out any project, program, or venture authorized by this charter or the laws of the State of Georgia;

(20) Municipal property ownership. To acquire, dispose of, lease, and hold in trust or otherwise any real, personal, or mixed property, in fee simple or lesser interest, inside or outside the property limits of the city;

(21) Municipal property protection. To provide for the preservation and protection of property and equipment of the city and the administration and use of same by the public; and to prescribe penalties and punishment for violations thereof;

(22) Municipal utilities. To acquire, lease, construct, operate, maintain, sell, and dispose of public utilities, including but not limited to a system of waterworks, sewers and drains, sewage disposal, gas works, electric light plants, cable television and other telecommunications, transportation facilities, public airports, and any other public utility; and to fix the taxes, charges, rates, fares, fees, assessments, regulations, and penalties and to provide for the withdrawal of service for refusal or failure to pay the same;

(23) Nuisance. To define a nuisance and provide for its abatement whether on public or private property;

(24) Penalties. To provide penalties for violation of any ordinances adopted pursuant to the authority of this charter and the laws of the State of Georgia;

(25) Planning and zoning. To provide comprehensive city planning for development by zoning; and to provide subdivision regulation and the like as the city council deems necessary and reasonable to ensure a safe, healthy, and esthetically pleasing community;

(26) Police and fire protection. To exercise the power of arrest through duly appointed police officers and to establish, operate, or contract for a police and a fire-fighting agency;

(27) Public hazards; removal. To provide for the destruction and removal of any building or other structure which is or may become dangerous or detrimental to the public;

(28) Public improvements. To provide for the acquisition, construction, building, operation, and maintenance of public ways, parks and playgrounds, public grounds, recreational facilities, cemeteries, markets and market houses, public buildings, libraries, sewers, drains, sewage treatment, waterworks, electrical systems, gas systems, other public utilities, public housing, airports, hospitals, terminals, docks, parking facilities, and charitable, cultural, educational, recreational, conservation, sport, curative, corrective, detentional, penal, and medical institutions, agencies, and facilities; and to provide any other public improvements, inside or outside the corporate limits of the city; to regulate the use of public improvements; and, for such purposes, property may be acquired by

condemnation under Title 22 of the O.C.G.A. or such other applicable laws as are now or may hereafter be enacted;

(29) Public peace. To provide for the prevention and punishment of drunkenness, riots, and public disturbances;

(30) Public transportation. To organize and operate such public transportation systems as are deemed beneficial;

(31) Public utilities and services. To grant franchises or make contracts for or impose taxes on public utilities and public service companies and to prescribe the rates, fares, regulations, and standards and conditions of service applicable to the service to be provided by the franchise grantee or contractor, insofar as not in conflict with valid regulations of the Georgia Public Service Commission;

(32) Regulation of roadside areas. To prohibit or regulate and control the erection, removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any and all other structures or obstructions upon or adjacent to the rights of way of streets and roads or within view thereof, within or abutting the corporate limits of the city; and to prescribe penalties and punishment for violation of such ordinances;

(33) Retirement. To provide and maintain a retirement plan for officers and employees of the city;

(34) Roadways. To lay out, open, extend, widen, narrow, establish or change the grade of, abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys, and walkways within the corporate limits of the city; and to grant franchises and rights of way throughout the streets and roads and over the bridges and viaducts for the use of public utilities; and to require real estate owners to repair and maintain in a safe condition the sidewalks adjoining their lots or lands and to impose penalties for failure to do so;

(35) Sewer fees. To levy a fee, charge, or sewer tax as necessary to assure the acquiring, constructing, equipping, operating, maintaining, and extending of a sewage disposal plant and sewerage system and to levy on those to whom sewers and sewerage systems are made available a sewer service fee, charge, or sewer tax for the availability or use of the sewers; to provide for the manner and method of collecting such service charges and for enforcing payment of the same; and to charge, impose, and collect a sewer connection fee or fees to those connected with the system;

(36) Solid waste disposal. To provide for the collection and disposal of garbage, rubbish, and refuse and to regulate the collection and disposal of garbage, rubbish, and refuse by others; and to provide for the separate collection of glass, tin, aluminum, cardboard, paper, and other recyclable materials and to provide for the sale of such items;

(37) Special areas of public regulation. To regulate or prohibit junk dealers, pawn shops, the manufacture, sale, or transportation of any intoxicating liquors, and the use of firearms; to regulate the transportation, storage, and use of combustible, explosive, and inflammable materials, the use of lighting and heating equipment, and any other business or situation which may be dangerous to persons or property; to regulate and control the conduct of peddlers and itinerant traders, theatrical performances, exhibitions, and shows of any kind, by taxation or otherwise; and to license, tax, regulate, or prohibit professional fortunetelling, palmistry, adult bookstores, and massage parlors;

(38) Special assessments. To levy and provide for the collection of special assessments to cover the costs for any public improvements;

(39) Taxes: ad valorem. To levy and provide for the assessment, valuation, revaluation, and collection of taxes on all property subject to taxation;

(40) Taxes: other. To levy and collect such other taxes as may be allowed now or in the future by law;

(41) Taxicabs. To regulate and license vehicles operated for hire in the city; to limit the number of such vehicles; to require the operators thereof to be licensed; to require public liability insurance on such vehicles in the amounts to be prescribed by ordinance; and to regulate the parking of such vehicles;

(42) Urban redevelopment. To organize and operate an urban redevelopment program;

(43) Water fee. To levy a fee, charge, or water tax as necessary to assure the acquiring, constructing, equipping, operating, maintaining, and extending of a water plant; to levy on those to whom water systems are made available a water service fee, charge, or tax for the availability or use of the water; to provide for the manner and method of collecting such service charge and for enforcing payment of the same; and to charge, impose, and collect a water connection fee or fees to those connected with the system; and

(44) Other powers. To exercise and enjoy all other powers, functions, rights, privileges, and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, or general welfare of the city and its inhabitants; and to exercise all implied powers necessary or desirable to carry into execution all powers granted in this charter as fully and completely as if such powers were fully stated in this charter; and to exercise all powers now or in the future authorized to be exercised by other municipal governments under other laws of the State of Georgia; and no listing of particular powers in this charter shall be held to be exclusive of others, nor restrictive of general words and phrases granting powers, but shall be held to be in addition to such powers unless expressly prohibited to municipalities under the Constitution or applicable laws of the State of Georgia.

SECTION 1.13.

Exercise of powers.

All powers, functions, rights, privileges, and immunities of the city, its officers, agencies, or employees shall be carried into execution as provided by this charter. If this charter makes no provision, such shall be carried into execution as provided by ordinance or as provided by pertinent laws of the State of Georgia.

ARTICLE II**GOVERNMENT STRUCTURE****SECTION 2.10.**

City council creation; number; election.

The legislative authority of the government of this city, except as otherwise specifically provided in this charter, shall be vested in a city council to be composed of a mayor and four councilmembers. The mayor and councilmembers shall be elected in the manner provided by this charter.

SECTION 2.11.City councilmembers;
terms and qualifications for office.

(a) The members of the city council shall serve for terms of four years and until their respective successors are elected and qualified. No person shall be eligible to serve as mayor or councilmember unless that person shall have been a resident of the city for 12 months prior to the date of the election of mayor or members of the city council; each shall continue to reside therein during that person's period of service and to be registered and qualified to vote in municipal elections of this city. Notwithstanding the provisions of this section, the mayor shall be elected in an election held the Tuesday after the first Monday in November of 2009 and serve an initial term of two years and successors shall serve for terms of four years thereafter.

(b) The mayor shall be elected by receiving the highest number of votes for that office from the qualified electors of the city at large.

(c) Councilmembers shall be elected at large. The two qualified candidates for council receiving the most votes cast for the offices of councilmembers shall be elected to fill such positions. Notwithstanding the provisions of this subsection, for the elections held on the

263 Tuesday after the first Monday in November of 2009, the two candidates for councilmember
264 receiving the first and second highest number of votes from the qualified electors of the city
265 at large shall serve for an initial term of office of two years pursuant to subsection (a) of this
266 section. The candidates for councilmember in such election receiving the third and fourth
267 highest number of votes from the qualified electors of the city at large shall serve for a term
268 of four years and successors shall serve for terms of four years thereafter.

269 **SECTION 2.12.**

270 Vacancy; filling of vacancies; suspensions.

271 (a) Vacancies – The office of mayor or councilmember shall become vacant upon such
272 person's death, resignation, forfeiture of office, failing or ceasing to reside in the city, or upon
273 the occurrence of any event specified by the Constitution, Title 45 of the O.C.G.A., or such
274 other applicable laws as are or may hereafter be enacted.

275 (b) Filling of vacancies – vacancy in the office of mayor or councilmember shall be filled
276 for the remainder of the unexpired term, if any, by appointment if less than 12 months remain
277 in the unexpired term, otherwise by an election as provided for in Section 5.12 of this charter
278 and Titles 21 and 45 of the O.C.G.A. or such other laws as are or may hereafter be enacted.

279 (c) Suspension – Upon the suspension from office of mayor or councilmember in any
280 manner authorized by the general laws of the State of Georgia, the city council or those
281 remaining shall appoint a successor for the duration of the suspension. If the suspension
282 becomes permanent, then the office shall become vacant and shall be filled for the remainder
283 of the unexpired term, if any, as provided for in this charter.

284 **SECTION 2.13.**

285 Compensation and expenses.

286 The annual salary of the mayor shall be \$4,800.00 and the annual salary for each
287 councilmember shall be \$2,400.00. Such salaries shall be paid from the municipal funds in
288 monthly installments. The city council may provide by ordinance for the provision of
289 insurance, retirement, workers' compensation, and other employee benefits to the mayor and
290 members of the city council and may provide by ordinance for the reimbursement of
291 expenses actually and necessarily incurred by the mayor and members of the city council in
292 carrying out their official duties.

293 **SECTION 2.14.**

294 Holding other office; voting when personally interested.

295 (a) Elected and appointed officers of the city are trustees and servants of the residents of the
296 city and shall act in a fiduciary capacity for the benefit of such residents.

297 (b) Except as authorized by law, no councilmember nor the mayor shall hold any other city
298 office or city employment during the term for which that person was elected.

299 (c) No councilmember nor the mayor shall vote upon any ordinance, resolution, contract,
300 or other matter in which that person is financially interested.

301 **SECTION 2.15.**

302 Inquiries and investigations.

303 Following the adoption of an authorizing resolution, the city council may make inquiries and
304 investigations into the affairs of the city and conduct of any department, office, or agency
305 thereof and for this purpose may subpoena witnesses, administer oaths, take testimony, and
306 require the production of evidence. Any person who fails or refuses to obey a lawful order
307 issued in the exercise of these powers by the city council shall be punished as may be
308 provided by ordinance.

309 **SECTION 2.16.**

310 General power and authority of the city council.

311 (a) Except as otherwise provided by law or this charter, the city council shall be vested with
312 all the powers of government of this city.

313 (b) Notwithstanding any other powers conferred upon the council by law, the council shall
314 have the authority to adopt and provide for the execution of such ordinances, resolutions,
315 rules, and regulations, not inconsistent with this charter and the Constitution and laws of the
316 State of Georgia, which it deems necessary, expedient, or helpful for the peace, good order,
317 protection of life and property, health, welfare, comfort, convenience, prosperity, or
318 well-being of the inhabitants of the City of Nicholson and may enforce such ordinances by
319 imposing penalties for violation thereof.

SECTION 2.17.

Organizational meetings.

The city council shall hold an organizational meeting at the first regular meeting in January following an election. The meeting shall be called to order by the city clerk and the oath of office shall be administered to the newly elected members as follows:

"I do solemnly (swear) (affirm) that I will faithfully perform the duties of (mayor) (councilmember) of this city and that I will support and defend the charter thereof as well as the Constitution and laws of the State of Georgia and the United States of America."

SECTION 2.18.

Meetings.

(a) The city council shall hold regular meetings at such times and places as shall be prescribed by ordinance.

(b) Special meetings of the city council may be held on call of the mayor or two members of the city council. Notice of such special meeting shall be served on all other members personally, or by telephone personally, at least 48 hours in advance of the meeting. Such notice to councilmembers shall not be required if the mayor and all councilmembers are present when the special meeting is called. Such notice of any special meeting may be waived by a councilmember in writing before or after such a meeting and attendance at the meeting shall also constitute a waiver of notice on any business transacted in such councilmember's presence. Only the business stated in the call may be transacted at the special meeting.

(c) All meetings of the city council shall be public to the extent required by law, and notice to the public of special meetings shall be made as fully as is reasonably possible as provided by Code Section 50-14-1 of the O.C.G.A. or other such applicable laws as are or may hereafter be enacted.

SECTION 2.19.

Rules of procedure.

(a) The city council shall adopt its rules of procedure and order of business consistent with the provisions of this charter and shall provide for keeping of a journal of its proceedings, which shall be a public record.

350 (b) All committees and committee chairpersons and officers of the city council shall be
351 appointed by the mayor and shall serve at the pleasure of the mayor. The mayor shall have
352 the power to appoint new members to any committee at any time.

353 **SECTION 2.20.**

354 Quorum; voting.

355 Two councilmembers and the mayor or three councilmembers shall constitute a quorum and
356 shall be authorized to transact business for the council. Voting on the adoption of ordinances
357 shall be taken by voice vote and the yeas and nays shall be recorded in the minutes, but on
358 the request of any member or the mayor, there shall be a roll-call vote. In order for any
359 ordinance, resolution, motion, or other actions of the council to be adopted, the measure must
360 receive at least three affirmative votes and must receive the affirmative votes of a majority
361 of those voting. No member of the city council shall abstain from voting on any matter
362 properly brought before the council for official action except when such member of council
363 has a conflict of interest which is disclosed in writing prior to or at the meeting and made a
364 part of the minutes. Any member of the city council present and eligible to vote on a matter
365 and refusing to do so for any reason other than a properly disclosed and recorded conflict of
366 interest shall be deemed to have acquiesced or concurred with the members of the majority
367 who did vote on question involved. The mayor shall vote only in the case of a tie or in the
368 case where his or her vote will provide the third affirmative vote required for approval of a
369 matter.

370 **SECTION 2.21.**

371 Ordinance form; procedures.

372 (a) Every proposed ordinance and resolution shall be introduced in writing and the city
373 council shall have the authority to approve, disapprove, or amend the same. A resolution may
374 be passed at the time it is offered, but an ordinance shall not be adopted until the title of said
375 ordinance shall have been read at two city council meetings, provided that the beginning of
376 said meetings be not less than 24 hours nor more than 60 days apart. This requirement of two
377 readings shall not apply to emergency ordinances or to ordinances adopted at the first
378 business meeting of the city council in a calendar year.

379 (b) The catchlines of sections of this charter or any ordinance printed in boldface type,
380 italics, or otherwise, are intended as mere captions to indicate the contents of the section; and

381 (1) Shall not be deemed or taken to be titles of such sections or as any part of the section;
382 and

(2) Shall not be so deemed when any of such sections, including the catchlines, are amended or reenacted unless expressly provided to the contrary. Furthermore, the chapter, article, and section headings contained in this charter shall not be deemed to govern, limit, or modify or in any manner affect the scope, meaning, or intent of the provisions of any chapter, article, or section hereof.

(c) The city council may, by ordinance or resolution, adopt rules and bylaws to govern the conduct of its business, including procedures and penalties for compelling the attendance of absent members. Such rules may include punishment for contemptuous behavior conducted in the presence of the city council.

SECTION 2.22.

Action requiring an ordinance.

Acts of the city council which have the force and effect of law shall be enacted by ordinance.

SECTION 2.23.

Emergencies.

(a) To meet a public emergency affecting life, health, property, or public peace, the city council may convene on call of the mayor or three councilmembers and may promptly adopt an emergency ordinance, but such ordinance may not levy taxes; grant, renew, or extend a franchise; regulate the rate charged by any public utility for its services; or authorize the borrowing of money except for loans to be repaid within 30 days. An emergency ordinance shall be introduced in the form prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms. An emergency ordinance may be adopted, with or without amendment, or rejected at the meeting at which it is introduced, but the affirmative vote of at least three councilmembers shall be required for adoption. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed 30 days following the date upon which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

(b) Such meetings shall be open to the public to the extent required by law and notice to the public of emergency meetings shall be made as fully as is reasonably possible in accordance

415 with Code Section 50-14-1 of the O.C.G.A. or such other applicable laws as are or may
416 hereafter be enacted.

417 **SECTION 2.24.**

418 Codes of technical regulations.

419 (a) The city council may adopt any standard code of technical regulations by reference
420 thereto in an adopting ordinance. The procedure and requirements governing such adopting
421 ordinance shall be as prescribed for ordinances generally except that: (1) the requirements
422 of subsection (b) of Section 2.21 of this charter for distribution and filing of copies of the
423 ordinance shall be construed to include copies of any code of technical regulations, as well
424 as the adopting ordinance; and (2) a copy of each adopted code of technical regulations, as
425 well as the adopting ordinance, shall be authenticated and recorded by the city clerk pursuant
426 to Section 2.25 of this charter.

427 (b) Copies of any adopted code of technical regulations shall be made available by the city
428 clerk for inspection by the public.

429 **SECTION 2.25.**

430 Signing; authenticating; recording; codification; printing.

431 (a) The city clerk shall authenticate by the city clerk's signature and record in full in a
432 properly indexed book kept for that purpose all ordinances adopted by the city council.

433 (b) The city council shall provide for the preparation of a general codification of all the
434 ordinances of the city having the force and effect of law. The general codification shall be
435 adopted by the city council by ordinance and shall be published promptly, together with all
436 amendments thereto and such codes of technical regulations and other rules and regulations
437 as the city council may specify. This compilation shall be known and cited officially as "The
438 Code of the City of Nicholson, Georgia." Copies of the code shall be furnished to all
439 officers, departments, and agencies of the city and made available for purchase by the public
440 at a reasonable price as fixed by the city council.

441 (c) The city council shall cause each ordinance and each amendment to this charter to be
442 printed promptly following its adoption, and the printed ordinances and charter amendments
443 shall be made available for purchase by the public at reasonable prices to be fixed by the city
444 council. Following publication of the first code under this charter and at all times thereafter,
445 the ordinances and charter amendments shall be printed in substantially the same style as the
446 code currently in effect and shall be suitable in form for incorporation therein. The city
447 council shall make such further arrangements as deemed desirable with reproduction and

448 distribution of any current changes in or additions to codes of technical regulations and other
449 rules and regulations included in the code.

450 **SECTION 2.26.**

451 Council's interference with administration.

452 Except for the purpose of inquiries and investigations under Section 2.15 of this charter, the
453 city council or its members shall deal with city officers and employees who are subject to the
454 direction and supervision of the mayor solely through the mayor, and neither the city council
455 nor its members shall give orders to any such officer or employee, either publicly or
456 privately.

457 **SECTION 2.27.**

458 Powers and duties of mayor.

459 (a) The mayor shall be the chief executive officer as well as the chief administrative officer
460 of the city government, a member of and the presiding officer of the city council, and
461 responsible for the efficient and orderly administration of the city's affairs. The mayor shall
462 be responsible for the enforcement of laws, rules, regulations, ordinances, and franchises in
463 the city. The mayor may conduct inquiries and investigations into the conduct of the city's
464 affairs and shall have such powers and duties as specified in this charter or as may be
465 provided by ordinance consistent with this charter.

466 (b) The mayor shall:

467 (1) Preside at all meetings of the city council;

468 (2) Be the head of the city for the purpose of service of process and for ceremonial
469 purposes and be the official spokesperson for the city and the advocate policy;

470 (3) Sign as a matter of course on behalf of the city all written and approved contracts,
471 ordinances, resolutions, and other instruments executed by the city which by law are
472 required to be in writing;

473 (4) See that all laws and ordinances of the city are faithfully executed and fully enforced;

474 (5) Vote on any motion, resolution, ordinance, or other question before the council only
475 as provided in Section 2.20 of this charter and vote on any matter before a committee on
476 which he or she serves;

477 (6) Obtain short term loans in the name of the city when authorized by the city council to
478 do so;

479 (7) Appoint councilmembers to oversee and report on the functions of the various
480 departments of the city;

- 481 (8) Require any department head to meet with him or her at a time and place designated
482 for consultation and advice upon the affairs of the city;
- 483 (9) Name qualified residents of the city to boards and commissions with approval of the
484 city council;
- 485 (10) Make decisions with respect to the employment or termination of city employees;
- 486 (11) Prepare or have prepared an agenda for each meeting of the city council which shall
487 include all business submitted by the mayor, any councilmember, or the city attorney;
- 488 (12) Appoint and employ all necessary employees of the city, provided that excepted from
489 this power of appointment are those officers and employees who by this charter are
490 appointed or elected by the council;
- 491 (13) Remove employees employed by the city without the consent of the council and
492 without assigning any reason therefor;
- 493 (14) Exercise supervision and control of all departments and all divisions created in this
494 charter or that may hereafter be created by the mayor and council except as otherwise
495 provided in this charter;
- 496 (15) See that all terms and conditions imposed in favor of the city or its inhabitants in any
497 public utility franchise are faithfully kept and performed and, if having knowledge of any
498 violation thereof, to call the same to the attention to the city attorney, whose duty it shall
499 be forthwith to take such steps as are necessary to protect and enforce the same;
- 500 (16) Make and execute all lawful contracts on behalf of the city as to matter within said
501 officer's jurisdiction to the extent that such contracts are funded in the city's budget, except
502 such as may be otherwise provided by law; provided, however, that no contract purchase
503 or obligation requiring a budget amendment shall be valid and binding until after approval
504 of the council;
- 505 (17) Act as budget officer to prepare and submit to the council prior to the beginning of
506 each fiscal year a budget of proposed expenditures for the ensuing year, showing in as
507 much detail as practicable the amounts allotted to each department of the city government
508 and the reasons for such estimated expenditures;
- 509 (18) Keep the council at all times fully advised as to the financial condition and needs of
510 the city;
- 511 (19) Make a full written report to the council on the first of each month showing the
512 operations and expenditures of each department of the city government for the preceding
513 month, and a synopsis of such reports shall be published by the clerk of the city;
- 514 (20) Fix all salaries and compensation of city employees in accordance with the city
515 budget and the city pay and classification plan; and
- 516 (21) Perform such other duties as may be prescribed by this charter or required by
517 ordinance or resolution of the council.

SECTION 2.28.**Mayor pro tempore.**

During the absence or physical or mental disability of the mayor for any cause, the mayor pro tempore of the city council, or in such person's absence or disability for any reason, any one of the councilmembers chosen by a majority vote of the city council, shall be clothed with all the rights and privileges of the mayor and shall perform the duties of the office of the mayor so long as such absence or disability shall continue. Any such absence or disability shall be declared by majority vote of all councilmembers. The mayor pro tempore or selected councilmember shall sign all contracts and ordinances in which the mayor has a disqualifying financial interest as provided in Section 2.14 of this charter.

SECTION 2.29.**Submission of ordinances to the mayor; veto power.**

(a) Every ordinance adopted by the councilmembers shall be presented promptly by the city clerk to the mayor after its adoption.

(b) The mayor, within ten calendar days of receipt of an ordinance, shall return it to the city clerk with or without the mayor's approval or with the mayor's disapproval. If the ordinance has been approved by the mayor, it shall become law upon its return to the city clerk; if the ordinance is neither approved nor disapproved, it shall become law at 12:00 Noon on the tenth calendar day after its adoption; if the ordinance is disapproved, the mayor shall submit to the councilmembers through the city clerk a written statement of the reasons for the veto. The city clerk shall record upon the ordinance the date of its delivery to and receipt from the mayor.

(c) Ordinances vetoed by the mayor shall be presented by the city clerk to the councilmembers at their next meeting. If the councilmembers then or at their next meeting adopt the ordinance by an affirmative vote of three members, it shall become law.

(d) The mayor may disapprove or reduce any item or items of appropriation in any ordinance. The approved part or parts of any ordinance making appropriations shall become law, and the part or parts disapproved shall not become law unless subsequently passed by the councilmembers over the mayor's veto as provided in this section. The reduced part or parts shall be presented to the councilmembers as though disapproved and shall not become law unless overridden by the councilmembers as provided in subsection (c) of this section.

549 **SECTION 2.30.**

550 Mayor pro tempore; selection; duties.

551 The mayor shall appoint a councilmember to be mayor pro tempore, who shall serve for a
552 period of one year. Each year thereafter, the mayor shall appoint a new member of the city
553 council to be mayor pro tempore. No councilmember shall be appointed to the position of
554 mayor pro tempore for two consecutive terms. The mayor pro tempore shall assume the
555 duties and powers of the mayor during the mayor's disability or absence, except that the
556 mayor pro tempore shall continue to act as a councilmember and may not exercise the
557 mayor's prerogative to vote in the case of a tie. During the mayor's disability or absence, the
558 mayor pro tempore may veto any action of council. If the mayor pro tempore is absent
559 because of sickness or disqualification, any one of the remaining councilmembers, chosen
560 by the majority of the city council, shall be clothed with all the rights and privileges of the
561 mayor and shall perform the mayor's duties in the same manner as the mayor pro tempore.

562 **ARTICLE III**

563 **ADMINISTRATIVE AFFAIRS**

564 **SECTION 3.10.**

565 Administrative and service departments.

566 (a) Except as otherwise provided in this charter, the city council by ordinance shall prescribe
567 the functions or duties and establish, abolish, alter, consolidate, or leave vacant all
568 nonelective offices, positions of employment, departments, and agencies of the city as
569 necessary for the proper administration of the affairs and government of this city.

570 (b) Except as otherwise provided by this charter or by law, the directors of departments and
571 other appointed officers of the city shall be appointed solely on the basis of their respective
572 administrative and professional qualifications.

573 (c) All appointed officers and directors of departments shall receive such compensation as
574 prescribed by ordinance.

575 (d) There shall be a director of each department or agency who shall be its principal officer.
576 Each director shall, subject to the direction and supervision of the mayor, be responsible for
577 the administration and direction of the affairs and operations of that director's department or
578 agency.

579 (e) All appointed officers and directors under the supervision of the mayor shall be
580 nominated by the mayor with confirmation of appointment by the city council. All appointed

581 officers and directors shall be employees at will and subject to removal or suspension at any
582 time by the mayor unless otherwise provided by law or ordinance.

583 **SECTION 3.11.**

584 Boards, commissions, and authorities.

585 (a) The city council shall create by ordinance such boards, commissions, and authorities to
586 fulfill any investigative, quasi-judicial, or quasi-legislative function the city council deems
587 necessary and shall by ordinance establish the composition, period of existence, duties, and
588 powers thereof.

589 (b) All members of boards, commissions, and authorities of the city shall be appointed by
590 the mayor for such terms of office and in such manner as shall be provided by ordinance,
591 except where other appointing authority, terms of office, or manner of appointment is
592 prescribed by this charter or by law.

593 (c) The city council by ordinance may provide for the compensation and reimbursement for
594 actual and necessary expenses of the members of any board, commission, or authority.

595 (d) Except as otherwise provided by charter or by law, no member of any board,
596 commission, or authority shall hold any elective office in the city.

597 (e) Any vacancy on a board, commission, or authority of the city shall be filled for the
598 unexpired term in the manner prescribed in this charter for original appointment, except as
599 otherwise provided by this charter or by law.

600 (f) No member of a board, commission, or authority shall assume office until that person has
601 executed and filed with the clerk of the city an oath obligating that person to perform
602 faithfully and impartially the duties of that person's office, such oath shall be prescribed by
603 ordinance and administered by the mayor.

604 (g) All members of boards, commissions, or authorities of the city serve at will and may be
605 removed at any time by the mayor unless otherwise provided by law.

606 (h) Except as otherwise provided by this charter or by law, each board, commission, or
607 authority of the city shall elect one of its members as chairperson and one member as vice
608 chairperson and may elect as its secretary one of its own members or may appoint as
609 secretary an employee of the city. Each board, commission, or authority of the city
610 government may establish such bylaws, rules, and regulations, not inconsistent with this
611 charter, ordinances of the city, or law, as it deems appropriate and necessary for the
612 fulfillment of its duties or the conduct of its affairs. Copies of such bylaws, rules, and
613 regulations shall be filed with the clerk of the city.

SECTION 3.12.

City attorney.

The mayor shall appoint a city attorney, together with such assistant city attorneys as may be authorized, and shall provide for the payment of such attorney or attorneys for services rendered to the city. The city attorney shall be responsible for providing for the representation and defense of the city in all litigation in which the city is a party; may be the prosecuting officer in the municipal court; shall attend the meetings of the city council as directed; shall advise the mayor and other officers and employees of the city concerning legal aspects of the city's affairs; and shall perform such other duties as may be required by virtue of such person's position as city attorney.

SECTION 3.13.

City clerk.

The mayor shall appoint a city clerk who shall not be a councilmember. The city clerk shall be custodian of the official city seal and city records; maintain city council records required by this charter; and perform such other duties as may be required by the city council.

SECTION 3.14.

Position classification and pay plans.

The mayor shall be responsible for the preparation of a position classification and pay plan which shall be submitted to the city council for approval. Such plan may apply to all employees of the city and any of its agencies, departments, boards, commissions, or authorities. When a pay plan has been adopted, the city council shall not increase or decrease the salary range applicable to any position except by amendment of such pay plan. For purposes of this section, all elected and appointed city officials are not city employees.

SECTION 3.15.

Personnel policies.

All employees serve at will and may be removed from office at any time unless otherwise provided by ordinance.

641 ARTICLE IV
642 JUDICIAL BRANCH

643 SECTION 4.10.
644 Creation; name.

645 There shall be a court to be known as the Municipal Court of the City of Nicholson.

646 SECTION 4.11.
647 Chief judge; associate judge.

648 (a) The municipal court shall be presided over by a chief judge and such part-time, full-time,
649 or stand-by judges as shall be provided by ordinance.

650 (b) No person shall be qualified or eligible to serve as judge unless he or she shall have
651 attained the age of 25 years and shall have been a member of the State Bar of Georgia for a
652 minimum of three years. The judge shall be appointed by resolution of the council. The
653 compensation of the judge shall be fixed by the council. The position of judge, created in this
654 article, shall not be a full-time position, and the person serving in said position may engage
655 in the private practice of law.

656 (c) A judge pro tem shall serve as requested by the judge, shall have the same qualifications
657 as the judge, shall be appointed by resolution of the council, and shall take the same oath as
658 the judge.

659 (d) Before entering on duties of his or her office, the judge and judge pro tem shall take an
660 oath before an officer duly authorized to administer oaths in this state declaring that he or she
661 will truly, honestly, and faithfully discharge the duties of his or her office to the best of his
662 or her ability without fear, favor, or partiality. The oath shall be entered before the members
663 of council and the mayor.

664 (e) The judge, or judge pro tem, shall serve for a term at the will of the mayor, but may be
665 removed from the position by a two-thirds' vote of the entire membership of the city council
666 or upon action taken by the State Judicial Qualifications Commission for:

- 667 (1) Willful misconduct in office;
668 (2) Willful and persistent failure to perform duties;
669 (3) Habitual intemperance;
670 (4) Conduct prejudicial to the administration of justice which brings the judicial office
671 into disrepute; or
672 (5) Disability seriously interfering with the performance of duties, which is, or is likely
673 to become, of a permanent character.

SECTION 4.12.

Convening.

The municipal court shall be convened at regular intervals as provided by ordinance.

SECTION 4.13.

Jurisdiction; powers.

(a) The municipal court shall try and punish for crimes against the City of Nicholson and for violation of its ordinances. The municipal court shall have authority to punish those in its presence for contempt, provided that such punishment shall not exceed \$1,000.00 or imprisonment for 15 days. The municipal court may fix punishment for offenses within its jurisdiction to the full extent allowed by state law.

(b) The municipal court shall have authority to establish a schedule of fees to defray the cost of operation.

(c) The municipal court shall have authority to establish bail and recognizances to ensure the presence of those charged with violations before said court and shall have discretionary authority to accept cash or personal or real property as security for appearance of persons charged with violations. Whenever any person shall give bail for his or her appearance and shall fail to appear at the time fixed for trial, the bond shall be forfeited by the judge presiding at such time and an execution issued thereon by serving the defendant and his or her sureties with a rule nisi at least two days before a hearing on the rule nisi. In the event that cash or property is accepted in lieu of bond for security for the appearance of a defendant at trial, and if such defendant fails to appear at the time and place fixed for trial, the cash so deposited shall be on order of the judge declared forfeited to the City of Nicholson, or the property so deposited shall have a lien against it for the value forfeited.

(d) The municipal court shall have the authority to bind prisoners over to the appropriate court when it appears, by probable cause, that a state law has been violated.

(e) The municipal court shall have the authority to administer oaths and to perform all other acts necessary or proper to the conduct of said court.

(f) The municipal court may compel the presence of all parties necessary to a proper disposal of each case by the issuance of summonses, subpoenas, and warrants which may be served as executed by any officer as authorized by this charter or by state law.

(g) The municipal court is specifically vested with all of the judicial jurisdiction and judicial powers throughout the entire area of the City of Nicholson granted by state laws generally to municipal courts and particularly by such laws as authorize the abatement of nuisances.

707 **SECTION 4.14.**

708 Certiorari.

709 The right of certiorari from the decision and judgment of the municipal court shall exist in
710 all criminal cases and ordinance violation cases, and such certiorari shall be obtained under
711 the sanction of a judge of the Superior Court of Jackson County under the laws of the State
712 of Georgia regulating the granting and issuance of writs of certiorari.

713 **SECTION 4.15.**

714 Rules for court.

715 With the approval of the city council, the judge shall have full power and authority to make
716 reasonable rules and regulations necessary and proper to secure the efficient and successful
717 administration of the municipal court; provided, however, that the city council may adopt in
718 part or in toto the rules and regulations applicable to municipal courts. The rules and
719 regulations made or adopted shall be filed with the city clerk, shall be available for public
720 inspection, and, upon request, a copy shall be furnished to all defendants in municipal court
721 proceedings at least 48 hours prior to such proceedings.

722 **ARTICLE V**

723 **ELECTIONS AND REMOVAL**

724 **SECTION 5.10.**

725 Applicability of general law.

726 All primaries and elections shall be held and conducted in accordance with Chapter 2 of
727 Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended.

728 **SECTION 5.11.**

729 Regular elections; time for holding.

730 Municipal elections shall be conducted in odd-numbered years, on the Tuesday next
731 following the first Monday in November.

SECTION 5.12.

Special elections; vacancies.

In the event that the office of mayor or councilmember shall become vacant as provided in Section 2.12 of this charter, the city council or those remaining shall order a special election to fill the balance of the unexpired term of such official; provided, however, if such vacancy occurs within 12 months of the expiration of the term of that office, the city council or those members remaining shall appoint a successor for the remainder of the term. In all other respects, the special election shall be held and conducted in accordance with Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended.

SECTION 5.13.

Other provisions.

Except as otherwise provided by this charter, the city council shall, by ordinance, prescribe such rules and regulations as it deems appropriate to fulfill any options and duties under Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code."

SECTION 5.14.

Removal of officers.

(a) A councilmember, the mayor, or other appointed officers provided for in this charter shall be removed from office for any one or more of the causes provided in Title 45 of the O.C.G.A. or such other applicable laws as are or may hereafter be enacted.

(b) Removal of an officer pursuant to subsection (a) of this section shall be accomplished by one of the following methods:

(1) Following a hearing at which an impartial panel shall render a decision. In the event an elected officer is sought to be removed by the action of the city council, such officer shall be entitled to a written notice specifying the ground or grounds for removal and to a public hearing which shall be held not less than ten days after the service of such written notice. The city council shall provide by ordinance for the manner in which such hearings shall be held. Any elected officer sought to be removed from office as provided in this section shall have the right of appeal from the decision of the city council to the Superior Court of Jackson County. Such appeal shall be governed by the same rules as govern appeals to the superior court from the probate court; or

(2) By an order of the Superior Court of Jackson County following a hearing on a complaint seeking such removal brought by any resident of the City of Nicholson.

764 ARTICLE VI
765 FINANCE
766 **SECTION 6.10.**
767 Property tax.

768 The city council may assess, levy, and collect an ad valorem tax on all real and personal
769 property within the corporate limits of the city that is subject to such taxation by the state and
770 county. This tax is for the purpose of raising revenues to defray the costs of operating the
771 city government, of providing governmental services, for the repayment of principal and
772 interest on general obligations, and for any other public purpose as determined by the city
773 council in its discretion.

774 **SECTION 6.11.**
775 Millage rate; due dates; payment methods.

776 The city council by ordinance shall establish a millage rate for the city property tax, a due
777 date, and the time period within which these taxes must be paid. The city council by
778 ordinance may provide for the payment of these taxes by installments or in one lump sum,
779 as well as authorize the voluntary payment of taxes prior to the time when due.

780 **SECTION 6.12.**
781 Occupation and business taxes.

782 The city council by ordinance shall have the power to levy such occupation or business taxes
783 as are not denied by law. The city council may classify businesses, occupations, or
784 professions for the purpose of such taxation in any way which may be lawful and may
785 compel the payment of such taxes as provided in Section 6.18 of this charter.

786 **SECTION 6.13.**
787 Licenses; permits; fees.

788 The city council by ordinance shall have the power to require businesses or practitioners
789 doing business in this city to obtain a permit for such activity from the city and pay a
790 regulatory fee for such permit as provided by general law. Such fees shall reflect the total
791 cost to the city of regulating the activity and, if unpaid, shall be collected as provided in
792 Section 6.18 of this charter.

SECTION 6.14.

Franchises.

(a) The city council shall have the power to grant franchises for the use of this city's streets and alleys for the purposes of railroads, street railways, telephone companies, electric companies, electric membership corporations, cable television and other telecommunications companies, gas companies, transportation companies, and other similar organizations. The city council shall determine the duration, terms, whether the same shall be exclusive or nonexclusive, and the consideration for such franchises; provided, however, no franchise shall be granted for a period in excess of 35 years and no franchise shall be granted unless the city receives just and adequate compensation therefor. The city council shall provide for the registration of all franchises with the city clerk in a registration book kept by the city clerk. The city council may provide by ordinance for the registration within a reasonable time of all franchises previously granted.

(b) If no franchise agreement is in effect, the city council has the authority to impose a tax on gross receipts for the use of this city's streets and alleys for the purposes of railroads, street railways, telephone companies, electric companies, electric membership corporations, cable television and other telecommunications companies, gas companies, transportation companies, and other similar organizations.

SECTION 6.15.

Service charges.

The city council by ordinance shall have the power to assess and collect fees, charges, and tolls for sewers, sanitary and health services, or any other services provided or made available within and outside the corporate limits of the city for the total cost to the city of providing or making available such services. If unpaid, such charges shall be collected as provided in Section 6.18 of this charter.

SECTION 6.16.

Special assessments.

The city council by ordinance shall have the power to assess and collect the cost of constructing, reconstructing, widening, or improving any public way, street, sidewalk, curbing, gutters, sewers, or other utility mains and appurtenances from the abutting property owners under such terms and conditions as are reasonable. If unpaid, such charges shall be collected as provided in Section 6.18 of this charter.

825 **SECTION 6.17.**

826 Construction; other taxes.

827 This city shall be empowered to levy any other tax or fee allowed now or hereafter by law,
828 and the specific mention of any right, power, or authority in this article shall not be construed
829 as limiting in any way the general powers of this city to govern its local affairs.

830 **SECTION 6.18.**

831 Collection of delinquent taxes and fees.

832 The city council by ordinance may provide generally for the collection of delinquent taxes,
833 fees, or other revenue due the city under Sections 6.10 through 6.17 of this charter by
834 whatever reasonable means as are not precluded by law. This shall include providing for the
835 dates when the taxes or fees are due; late penalties or interest; issuance and execution of
836 fi. fas.; creation and priority of liens; making delinquent taxes and fees personal debts of the
837 persons required to pay the taxes or fees imposed; revoking city permits for failure to pay any
838 city taxes or fees; and providing for the assignment or transfer of tax executions.

839 **SECTION 6.19.**

840 General obligation bonds.

841 The city council shall have the power to issue bonds for the purpose of raising revenue to
842 carry out any project, program, or venture authorized under this charter or the laws of the
843 state. Such bonding authority shall be exercised in accordance with the laws governing bond
844 issuance by municipalities in effect at the time such issue is undertaken.

845 **SECTION 6.20.**

846 Revenue bonds.

847 Revenue bonds may be issued by the city council as state law now or hereafter provides.
848 Such bonds are to be paid out of any revenue produced by the project, program, or venture
849 for which they were issued.

850 **SECTION 6.21.**

851 Short-term loans.

852 The city may obtain short-term loans and must repay such loans not later than December 31
853 of each year, unless otherwise provided by law.

854 **SECTION 6.22.**

855 Lease-purchase contracts.

856 The city may enter into multiyear lease, purchase, or lease-purchase contracts for the
857 acquisition of goods, materials, real and personal property, services, and supplies, provided
858 the contract terminates without further obligation on the part of the municipality at the close
859 of the calendar year in which it was executed and at the close of each succeeding calendar
860 year for which it may be renewed. Contracts must be executed in accordance with the
861 requirements of Code Section 36-60-13 of the O.C.G.A., or other such applicable laws as are
862 or may hereafter be enacted.

863 **SECTION 6.23.**

864 Fiscal year.

865 The city council shall set the fiscal year by ordinance. This fiscal year shall constitute the
866 budget year and the year for financial accounting and reporting of each and every office,
867 department, agency, and activity of the city government.

868 **SECTION 6.24.**

869 Budget ordinance.

870 The city council shall provide an ordinance on the procedures and requirements for the
871 preparation and execution of an annual operating budget, a capital improvement plan, and
872 a capital budget, including requirements as to the scope, content, and form of such budgets
873 and plans. The city council shall also comply with the budgeting and auditing provisions of
874 Chapter 81 of Title 36 of the O.C.G.A.

875 **SECTION 6.25.**

876 Operating budget.

877 On or before a date fixed by the city council but not later October 1 of each year, the mayor
878 shall submit to the city council a proposed operating budget for the ensuing fiscal year. The
879 budget shall be accompanied by a message from the city mayor containing a statement of the
880 general fiscal policies of the city, the important features of the budget, explanations of major
881 changes recommended for the next fiscal year, a general summary of the budget, and such
882 other comments and information as may be deemed pertinent. The operating budget, the

883 capital improvements budget, the budget message, and all supporting documents shall be
884 filed in the office of the city clerk and shall be open to public inspection.

885 **SECTION 6.26.**

886 Action by city council on budget.

887 (a) The councilmembers may amend the operating budget proposed by the mayor, except
888 that the budget as finally amended and adopted must provide for all expenditures required
889 by state law or by other provisions of this charter and for all debt service requirements for
890 the ensuing fiscal year. The total appropriations from any fund shall not exceed the
891 estimated fund balance, reserves, and revenues.

892 (b) The city council by ordinance shall adopt the final operating budget for the ensuing fiscal
893 year not later than November 1 of each year. If the city council fails to adopt the budget by
894 said date, the amounts appropriated for operation for the then current fiscal year shall be
895 deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items
896 prorated accordingly, until such time as the city council adopts a budget for the ensuing fiscal
897 year. Adoption of the budget shall take the form of an appropriations ordinance setting out
898 the estimated revenues in detail by sources and making appropriations according to fund and
899 by organizational unit, purpose, or activity as set out in the budget preparation ordinance
900 adopted pursuant to Section 6.24 of this charter.

901 (c) The amount set out in the adopted operating budget for each organizational unit shall
902 constitute the annual appropriation for such, and no expenditure shall be made or
903 encumbrance created in excess of the otherwise unencumbered balance of the appropriations
904 or allotment thereof to which it is chargeable.

905 **SECTION 6.27.**

906 Levy of taxes.

907 The city council shall levy by ordinance such taxes as are necessary. The taxes and tax rates
908 set by such ordinance shall be such that reasonable estimates of revenues from such levy
909 shall at least be sufficient, together with other anticipated revenues, fund balances, and
910 applicable reserves, to equal the total amount appropriated for each of the several funds set
911 forth in the annual operating budget for defraying the expenses of the general government
912 of this city.

913 **SECTION 6.28.**

914 Changes in appropriations.

915 The city council by ordinance may make changes in the appropriations contained in the
916 current operating budget at any regular meeting or special or emergency meeting called for
917 such purpose, but any additional appropriations may be made only from an existing
918 unexpended surplus.

919 **SECTION 6.29.**

920 Capital improvements.

921 (a) On or before the date fixed by the city council, but not later than October 1, the mayor
922 shall submit to the city council a proposed capital improvements plan with a recommended
923 capital budget containing the means of financing the improvements proposed for the ensuing
924 fiscal year. The city council shall have power to accept, with or without amendments, or
925 reject the proposed plan and budget. The city council shall not authorize an expenditure for
926 the construction of any building, structure, work, or improvement unless the appropriations
927 for such project are included in the capital budget, except to meet a public emergency as
928 provided in Section 2.23 of this charter.

929 (b) The city council shall adopt by ordinance the final capital budget for the ensuing fiscal
930 year not later than January 1 of each year. No appropriation provided for in a prior capital
931 budget shall lapse until the purpose for which the appropriation was made shall have been
932 accomplished or abandoned; provided, however, the mayor may submit amendments to the
933 capital budget at any time during the fiscal year, accompanied by recommendations. Any
934 such amendments to the capital budget shall become effective only upon adoption by
935 ordinance.

936 **SECTION 6.30.**

937 Any homestead exemptions applicable to ad valorem taxes levied by the city shall be as
938 provided by Act of the General Assembly pursuant to Article VII, Section II, Paragraph II
939 of the Georgia Constitution.

940 **SECTION 6.31.**

941 Audits.

942 There shall be an annual independent audit of all city accounts, funds, and financial
943 transactions by a certified public accountant selected by the city council. The audit shall be

944 conducted according to generally accepted auditing principles. Any audit of any funds by
945 the state or federal governments may be accepted as satisfying the requirements of this
946 charter. Copies of annual audit reports shall be available at printing costs to the public.

947 **SECTION 6.32.**

948 Procurement and property management.

949 No contract with the city shall be binding on the city unless:

950 (1) It is in writing;

951 (2) It is drawn by or submitted and reviewed by the city attorney and, as a matter of
952 course, is signed by the city attorney to indicate such drafting or review; and

953 (3) It is made or authorized by the city council and such approval is entered in the city
954 council journal of proceedings pursuant to Section 2.19 of this charter.

955 **SECTION 6.33.**

956 Purchasing.

957 The city council shall by ordinance prescribe procedures for a system of centralized
958 purchasing for the city.

959 **SECTION 6.34.**

960 Sale and lease of property.

961 (a) The city council may sell and convey or lease any real or personal property owned or
962 held by the city for governmental or other purposes as now or hereafter provided by law.

963 (b) The city council may quitclaim any rights it may have in property not needed for public
964 purposes upon report by the mayor and adoption of a resolution, both finding that the
965 property is not needed for public or other purposes and that the interest of the city has no
966 readily ascertainable monetary value.

967 (c) Whenever in opening, extending, or widening any street, avenue, alley, or public place
968 of the city a small parcel or tract of land is cut off or separated by such work from a larger
969 tract or boundary of land owned by the city, the city council may authorize the mayor to sell
970 and convey said cut-off or separated parcel or tract of land to an abutting or adjoining
971 property owner or owners where such sale and conveyance facilitates the highest and best
972 use of the abutting owner's property. Included in the sales contract shall be a provision for
973 the rights of way of said street, avenue, alley, or public place. Each abutting property owner
974 shall be notified of the availability of the property and given the opportunity to purchase said

975 property under such terms and conditions as set out by ordinance. All deeds and
976 conveyances heretofore and hereafter so executed and delivered shall convey all title and
977 interest the city has in such property, notwithstanding the fact that no public sale after
978 advertisement was or is hereafter made.

979 **ARTICLE VII**
980 **GENERAL PROVISIONS**

981 **SECTION 7.10.**
982 **Bonds for officials.**

983 The officers and employees of this city, both elected and appointed, shall execute such surety
984 or fidelity bonds in such amounts and upon such terms and conditions as the city council
985 shall from time to time require by ordinance or as may be provided by law.

986 **SECTION 7.11.**
987 **Prior ordinances.**

988 All ordinances, resolutions, rules, and regulations now in force in the city not inconsistent
989 with this charter are declared valid and of full effect and force until amended or repealed by
990 the city council.

991 **SECTION 7.12.**
992 **Existing personnel and officers.**

993 Except as specifically provided otherwise by this charter, all personnel and officers of this
994 city and their rights, privileges, and powers shall continue beyond the time this charter takes
995 effect for a period of 60 days before or during which time the existing city council shall pass
996 a transition ordinance detailing the changes in personnel and appointed officers required or
997 desired and arranging such titles, rights, privileges, and powers as may be required or desired
998 to allow a reasonable transition.

999 **SECTION 7.13.**
1000 **Pending matters.**

1001 Except as specifically provided otherwise by this charter, all rights, claims, actions, orders,
1002 contracts, and legal or administrative proceedings shall continue and any such ongoing work

1003 or cases shall be completed by such city agencies, personnel, or offices as may be provided
1004 by the city council.

1005 **SECTION 7.14.**

1006 Construction and definitions.

1007 (a) Section captions in this charter are informative only and are not be considered as a part
1008 thereof.

1009 (b) The word "shall" is mandatory and the word "may" is permissive.

1010 (c) The singular shall include the plural, the masculine shall include the feminine, and vice
1011 versa.

1012 (d) Except as specifically provided otherwise by this charter, the term:

1013 (1) "City council" means the members of the city council and the mayor.

1014 (2) "Councilmember" means a member of the city council other than the mayor.

1015 **SECTION 7.15.**

1016 Specific repealer.

1017 An Act incorporating the City of Nicholson, approved April 22, 1907 (Ga. L. 1907, p. 845),
1018 is repealed in its entirety and all amendatory Acts thereto are likewise repealed in their
1019 entirety.

1020 **SECTION 7.16.**

1021 Preclearance.

1022 The governing authority of the City of Nicholson shall through its legal counsel cause this
1023 Act to be submitted for preclearance under the federal Voting Right Act of 1965, as
1024 amended; and such submission shall be made to the United States Department of Justice or
1025 filed with the appropriate court no later than 45 days after the date on which this Act is
1026 approved by the Governor or otherwise becomes law without such approval.

1027 **SECTION 7.17.**

1028 Effective date.

1029 This Act shall become effective upon its approval by the Governor or upon its becoming law
1030 without such approval.

1032 General repealer.

1033 All laws and parts of laws in conflict with this Act are repealed.